

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

GEORGE R. BOHON
FRANCES O. BOHON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1859

Decision No. CU 6133

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by GEORGE R. BOHON in the amount of \$49,960.00 based upon the asserted ownership and loss of personalty and investments in Cuba. Pursuant to the community property laws of Cuba, claimant's wife has an interest in portions of the claim and has been added as a claimant. Claimants have been nationals of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants describes their losses as follows:

Personal property including automobile, bank account and household furnishings	\$20,860.00
271 shares of Cia. Commercial Bohon	27,100.00
Havana Biltmore Yacht & Country Club	1,000.00
Havana Country Club	<u>1,000.00</u>
	\$49,960.00

Personal Property

Based upon the entire record, including affidavits of persons acquainted with claimants, correspondence and a list of the personalty deposited with a storage company or in the apartment occupied by claimants in Cuba, the Commission finds that claimants owned personalty, a bank account, household furnishings, horses and a car.

On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. Claimants state they left the country before that date.

Based on the foregoing and the evidence of record, the Commission finds that claimants' bank account, personalty, household furnishings, horses and car were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]; and Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Based upon the entire record, the Commission finds that the bank account had a balance of \$800.00; the household furnishings, and other personalty appropriately depreciated had a value at the time of loss of \$13,890.00; and the 1953 Buick had a depreciated value of \$300.00. Accordingly, the Commission concludes that each claimant suffered a loss in the amount of \$7,495.00 within the meaning of Title V of the Act, as a result of

the taking of their above-described property by the Government of Cuba on December 6, 1961.

Interests in Cuban Entities

Claim is asserted for stock interests in Cia. Comercial Bohon, Havana Biltmore Yacht and Country Club and Havana Country Club. The record shows that the three entities were organized under the laws of Cuba. Consequently, none of these entities qualifies as a "corporate national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held that a stockholder in such a corporation is entitled to file a claim based upon his interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

Based upon the evidence of record, the Commission finds that claimants owned or were the beneficial owners of 271 shares of common stock of Cia. Comercial Bohon, one share of Series A stock of Havana Biltmore Yacht and Country Club and one share of Havana Country Club at all times pertinent to this claim.

The Commission has found that Cia. Comercial Bohon was nationalized by the Government of Cuba on October 13, 1960 and that the value of a share of common stock in that corporation on that date was \$177.1861. (See Claim of Robert B. Stevens, Claim No. CU-1898. The Commission therefore finds that claimants' stock interests of 271 common shares in the nationalized corporation had a value of \$48,017.43 on October 13, 1960.

The Commission has found that the Havana Biltmore Yacht and Country Club was intervened on March 19, 1960 and that the value of a Series A share of stock was worth \$3,500.00 on that date. (See Claim of Arman E. Becker, Jr., Claim No. CU-1094.) Accordingly the Commission finds that the value of claimants interest in the Havana Yacht and Country Club on March 19, 1960, the date of loss, was \$3,500.00.

The value of a share in the Havana Country Club has been determined by the Commission to have been \$1,000.00. (See Claim of Robert J. Macaulay and Marie Agnes Macaulay, Claim No. CU-0311.) The Commission finds the value of claimants' interest in the Havana Country Club was \$1,000.00 and a loss in that amount for such interest was suffered on December 6, 1961 under Law 989.

The Commission concludes that claimants suffered a loss in the total amount of \$52,517.43 for their ownership interests in the above-described Cuban entities.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
March 19, 1960	\$ 3,500.00
October 13, 1960	48,017.43
December 6, 1961	<u>15,990.00</u>
Total	\$67,507.43

CERTIFICATIONS OF LOSS

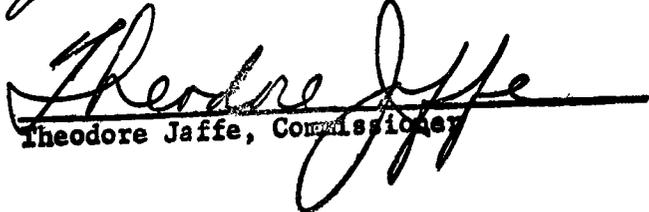
The Commission certifies that GEORGE R. BOHON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Three Thousand Seven Hundred Fifty-Three Dollars and Seventy-One Cents (\$33,753.71) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that FRANCES O. BOHON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Three Thousand Seven Hundred Fifty-Three Dollars Seventy-Two Cents (\$ 33,753.72) with interest at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAR 29 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. §531.5(e) and (g), as amended (1970).)